
Appendix E

Stipulations Applicable to Fluid Mineral Leasing and
Land Use Authorizations

APPENDIX E

STIPULATIONS APPLICABLE TO FLUID MINERAL LEASING AND LAND USE AUTHORIZATIONS

This appendix lists the stipulations for fluid mineral leasing (e.g., oil, gas, and geothermal) referred to throughout this Draft EIS by alternative. Stipulations outlined in this appendix also apply to fluid mineral leasing on lands overlying federal mineral estate, which includes federal mineral estate underlying BLM/USFS lands, privately owned lands, and state-owned lands.

Existing (Alternative A) and proposed (Alternatives B, C, and D) stipulations are included here to present the range of alternatives. Upon completion of the EIS and proposed plan, the list of stipulations that are included in the decision would supersede the relevant stipulations attached to the existing LUPs. Those program areas/stipulations that are not considered in this Draft EIS (not relevant to GRSG and GRSG habitat) would continue in full force and effect where they apply (within individual BLM field offices or the Routt National Forest). The stipulations would not apply to activities and uses where they are contrary to laws, regulations, or specific program guidance.

DESCRIPTION OF STIPULATIONS

Three types of stipulations could be applied to leasing authorizations: 1) NSOs; 2) CSUs; and 3) TLs. Notice to Lessees and COAs, which are applied to existing leases, are also described below.

No Surface Occupancy (NSO)

Use or occupancy of the land surface for fluid mineral exploration or development is prohibited to protect GRSG and GRSG habitat. In areas open to fluid mineral leasing with NSO stipulations, fluid mineral leasing activities are permitted but surface-disturbing activities cannot be conducted on the surface of the land unless an exception, waiver, or modification is granted. Access to fluid mineral deposits would require drilling from outside the boundaries of the NSO stipulation.

Controlled Surface Use (CSU)

A CSU stipulation is a category of moderate constraint that allows some use and occupancy of public land while protecting identified resources or values. A CSU stipulation allows the BLM to require additional conditions be met to protect a specified resource or value in addition to standard lease terms and conditions.

Timing Limitations (TL)

Areas identified for TLs, a moderate constraint, are closed to fluid mineral exploration and development during identified time frames. Construction, drilling, completions, and other operations considered to be intensive in nature are not allowed. Intensive maintenance, such as workovers on wells, is not permitted. Administrative activities are allowed at the discretion of the Authorized Officer.

Notice to Lessees

A notice to lessee is a written notice issued by the Authorized Officer. Notice to lessees implement regulations and operating orders, and serve as instructions on specific item(s) of importance within a state, district, or area.

Condition of Approval (COA)

COAs are enforceable conditions or provisions under which an Application for Permit to Drill is approved.

EXCEPTIONS, MODIFICATIONS, AND WAIVERS

An exception exempts the holder of the land use authorization document from the stipulation on a one-time basis. A modification changes the language or provisions of a stipulation due to changed conditions or new information either temporarily or for the term of the lease. A modification may or may not apply to all other sites within the leasehold. A waiver permanently exempts the surface stipulation for a specific lease, planning area, or resource based on absence of need, such as a determination that protection of winter use is unnecessary for maintenance or recovery of a species.

Exception, Modification, or Waiver Process

An exception, modification, or waiver may be granted at the discretion of the Authorized Officer if the exception, modification, or waiver criteria described below are met. In order to implement an action that would not normally be allowed because of a stipulation, the proponent must submit a request in writing for an exception, modification, or waiver and provide the data necessary to demonstrate that specific criteria have been met. Prior to any modification or waiver of a lease stipulation, a 30-day public notice and comment period may be required.

Standard Modification

A 30-day public notice and comment period is required before modification of a stipulation.

Standard Waiver

No waivers are authorized unless the area or resource mapped as possessing the attributes protected by the stipulation are determined during collaboration with CPW to lack those attributes.

STIPULATIONS APPLICABLE TO FLUID MINERAL LEASING

Description of Alternative A¹ number 46 in Chapter 2, Table 2-3

Colorado River Valley Field Office

STIPULATION GS-NSO-12: *Threatened or Endangered Species.* Prohibit surface occupancy and surface-disturbing activities on habitat areas for those species listed by the federal or state government as endangered or threatened and for federal proposed or candidate species. Habitat areas include occupied habitat and habitat necessary for the maintenance or recovery of the species.

STIPULATION GS-NSO-ROAN-24: *Threatened, Endangered, or Candidate Species Habitat.* In order to protect occupied habitat and immediately adjacent potential habitat crucial for the maintenance or recovery of species listed under the ESA or by the State of Colorado as threatened or endangered (including proposed or candidate species under the ESA), no ground-disturbing activities will be authorized within occupied habitat or immediately adjacent potential habitat necessary for maintenance or recovery of the species.

STIPULATION GS-TL-3: *GRSG Winter and Nesting Habitat.* Prohibit surface occupancy and surface-disturbing activities during certain timeframes in grouse crucial winter habitat and nesting habitat (includes GRSG). Nesting habitat is described as sagebrush stands with sagebrush plants between 30 and 100 centimeters (approximately 12 and 40 inches) in height and a mean canopy cover between 15 and 40 percent within a 2-mile radius of an active lek. Winter habitat: December 16 to March 15. Nesting habitat: March 1 to June 30.

Grand Junction Field Office: No stipulations specific to GRSG.

Kremmling Field Office

STIPULATION NSO CO-02: *Grouse Leks.* No surface occupancy or use allowed within 0.25 mile of active lek.

STIPULATION TL-CO-15: *GRSG Winter Habitat --* Prohibit surface occupancy and surface-disturbing activities during certain timeframes in GRSG crucial winter habitat and nesting habitat (includes GRSG). [GRSG nesting habitat is described as sagebrush stands with sagebrush plants between 30 centimeters and 100 centimeters (approximately 12 inches and 40 inches) in

¹ See respective LUPs for list of exceptions, modifications, and waivers specific to each stipulation listed below.

height, and a mean canopy cover between 15 percent and 40 percent within a 2-mile radius of an active lek.] GRSG crucial winter habitat: December 16 to March 15; and GRSG nesting habitat: March 1 to June 30

Little Snake Field Office

STIPULATION NSO: *Greater Sage-grouse lek* – prohibit surface occupancy within 0.6 mile of a GRSG lek.

STIPULATION CSU: For any new leases which overlie medium priority habitat, a stipulation will be attached to the lease to comply with the two criteria described in detail in the LSFO ROD. The criteria would include a 5-percent disturbance limitation and a POD illustrating a strategy to leave large blocks of undisturbed habitat.

STIPULATION TL: Between March 1 and June 30, GRSG nesting and early brood-rearing habitat will be stipulated as CSU for oil and gas operations within a 4-mile radius of the perimeter of a lek.

STIPULATION TL: GRSG crucial winter habitat will be closed from December 15 to March 15.

White River Field Office

STIPULATION TL-16: No development activity will be allowed between December 16 and March 15. The CPW has indicated that these features exist on public lands within the White River Resource Area but have not yet delineated specific areas that will be subject to this timing restriction.

STIPULATION NSO-22: No Surface Occupancy within .25 mile of identified lek sites.

STIPULATION TL-20: This area encompasses suitable sage-grouse nesting habitat associated with individual leks. This stipulation will not take effect until direct and indirect impacts to suitable nesting cover exceeds 10 percent of the habitat available within 2 miles of identified leks. Further development, after this threshold has been exceeded, will not be allowed from April 15 through July 7. (Development can occur until 10 percent of the habitat associated with a lek is impacted, from then on, additional activity can occur from July 8 through April 14.)

Routt National Forest

STIPULATION TL: Timing stipulation for Grouse Breeding Complex March 1 through June 30.

Description of Alternative D number 46 in Chapter 2, Table 2-4

GRSG PPH NSO-46d. Apply NSO stipulation for fluid mineral leasing in PPH.

Purpose: Manage fluid minerals to avoid, minimize, and mitigate 1) direct disturbance, displacement, or mortality of GRSG, 2) direct loss of habitat, or loss of effective habitat through fragmentation, and 3) cumulative landscape-level impacts.

Exception: Where data-based documentation is available to warrant a conclusion that a) GRSG populations in the applicable Colorado GRSG MZ are healthy and stable at objective levels or increasing, and b) an exception, modification, or waiver would not adversely affect GRSG population due to habitat loss or disruptive activities, the Authorized Officer may grant an exception, modification, or waiver with concurrence from CPW. In many cases, this exception, modification, or waiver requirement would require project proponents to fund studies necessary to secure the data-based documentation requirement (see **Appendix F**, Disturbance Cap Management, for specifics regarding data-base documentation requirement). Exceptions would be subject to **Ecological Sites that Support Sagebrush in PPH CSU-46d and GRSG ADH TL-46d** as necessary to replace the NSO stipulation.

Modification: Standard modification requirements apply.

Waiver: Standard waiver requirements apply.

Description of Alternative D number 46 in Chapter 2, Table 2-4

GRSG ADH NSO-46d. Apply NSO stipulation for fluid mineral leasing in ADH within a minimum distance of 0.6 mile from active leks.

Purpose: Manage fluid minerals to avoid, minimize, and mitigate 1) direct disturbance, displacement, or mortality of GRSG, 2) direct loss of habitat, or loss of effective habitat through fragmentation, and 3) cumulative landscape-level impacts.

Exception: Where data-based documentation is available to warrant a conclusion that a) GRSG populations in the applicable Colorado MZ are healthy and stable at objective levels or increasing, and b) an exception, modification, or waiver would not adversely affect GRSG population due to habitat loss or disruptive activities, the Authorized Officer may grant an exception, modification, or waiver. In many cases, this exception, modification, or waiver requirement would require project proponents to fund studies necessary to secure the data-based documentation requirement. Exceptions would be subject to **Ecological Sites that Support Sagebrush in PPH CSU-46d and GRSG ADH TL-46d** as necessary to replace the NSO stipulation.

Modification: Standard modification requirements apply.

Waiver: Standard waiver requirements apply.

Description of Alternative D number 46 in Chapter 2, Table 2-4

GRSG ADH TL-46d. Within ADH, prohibit surface occupancy within a minimum of 4 miles from active leks during lekking, nesting, and early brood rearing (see **Chapter 2, Table 2-6**, Existing Habitat Timing Limitations by Field Office, for timing limitation specifications).

Purpose: Manage fluid minerals to avoid, minimize, and mitigate 1) direct disturbance, displacement, or mortality of GRSG, 2) direct loss of habitat, or loss of effective habitat through fragmentation, and 3) cumulative landscape-level impacts.

Exception: Where data-based documentation is available to warrant a conclusion that a) GRSG populations in the applicable Colorado GRSG MZ are healthy and stable at objective levels or increasing, and b) an exception, modification, or waiver would not adversely affect GRSG population due to habitat loss or disruptive activities, the Authorized Officer may grant an exception, modification, or waiver. In many cases, this exception, modification, or waiver requirement would require project proponents to fund studies necessary to secure the data-based documentation requirement. Exceptions would be subject to appropriate CSU stipulations and would be applied as necessary to replace the NSO stipulation.

Modification: Standard modification requirements apply.

Waiver: Standard waiver requirements apply.

Description of Alternative D number 46 in Chapter 2, Table 2-4

Ecological Sites that Support Sagebrush in PPH CSU-46d. Surface disturbance within ecological sites that support sagebrush in PPH would not exceed 5 percent within the corresponding Colorado MZ.

The surface occupancy restriction criteria identified in this stipulation may preclude surface occupancy of the lease and may be beyond the ability of the lessee to meet due to existing surface disturbance on federal, state, or private lands within PPH.

Purpose: Manage fluid minerals to avoid, minimize, and mitigate 1) direct disturbance, displacement, or mortality of GRSG, 2) direct loss of habitat, or loss of effective habitat through fragmentation, and 3) cumulative landscape-level impacts.

Exception: Where data-based documentation is available to warrant a conclusion that a) GRSG populations in the applicable Colorado MZ are healthy and stable at objective levels or increasing, and b) an exception, modification, or waiver would not adversely affect GRSG population due to habitat loss or disruptive activities, the Authorized Officer may grant an exception, modification, or waiver. In many cases, this exception, modification, or waiver requirement would require project proponents to fund studies necessary to secure the data-based documentation requirement. Exceptions would be subject to appropriate CSU stipulations and would be applied as necessary to replace the NSO stipulation.

Modification: Standard modification requirements apply.

Waiver: Standard waiver requirements apply.

Description of Alternatives B/C numbers 47-51 in Chapter 2, Table 2-4

GRSG PPH COA-47-51b/c. The operator/lessee is required to conduct site-specific review of proposed projects prior to approval of Applications for Permit to drill. For leases within PPH, the following COAs would apply:

- Preclude new surface occupancy on existing leases within PPH.
- If the lease is entirely within PPH, do not allow surface occupancy of any portion within 4 miles around the lek and limit permitted disturbances to one per section with no more than 3 percent surface disturbance in that section.
- If the entire lease is within the 4-mile lek perimeter, limit permitted disturbances to one per section with no more than 3 percent surface disturbance in that section. Require any development to be placed at the most distal part of the lease from the lek, or depending on topography and other habitat aspects, in an area that is demonstrably less harmful to GRSG, such as based on topography or vegetation.

The surface occupancy restriction criteria identified in this notice may preclude surface occupancy and may be beyond the ability of the lessee to meet due to existing surface disturbance on federal, state, or private lands within PPH.

Description of Alternative D numbers 47-51 in Chapter 2, Table 2-4

Where federal oil and gas leases have been issued and the applicable LUP decision, as revised or amended, does not provide adequate stipulations for the protection of GRSG or GRSG habitat, determine adequate protections through the NEPA process and the environmental record of review (43 CFR 3162.5) and include as permit COAs.

The Surface Use Plan of Operations (43CFR 3162-1(f)) for proposed operations shall address, at a minimum, the anticipated noise, density and amount of disturbance, mechanical movement (e.g., pump jacks), permanent and temporary facilities, traffic, phases of development over time, offsite mitigation, and expected periods of use associated with the proposed project.

Include the following disturbance and surface occupancy limits as a COAs:

GRSG PPH COA-47-51d. Prohibit surface occupancy or disturbance within 4 miles of a lek during lekking, nesting, and early brood-rearing.

An exception to **GRSG PPH COA-47-51d** could be granted by the Authorized Officer if one or more of the following conditions exist:

- Where multiple wells are drilled from one pad in a multi-year operation, the drilling equipment may remain in place within 4 miles of a lek during lekking, nesting, and early brood-rearing. Drilling-related activities may be prohibited during this time.
- Where topography and/or terrain are such that surface occupancy or disturbance within 4 miles of a lek would not adversely affect GRSG populations due to habitat loss or disruptive activities impacting lekking, nesting, or early brood rearing, the Authorized Officer may authorize the surface occupancy or disturbance.

Exceptions to the TL are not expected to be made within 0.6-mile of active leks regardless of habitat and percent disturbance within Colorado MZs.

GRSG Ecological Sites that Support Sagebrush in PPH COA-47-51d: Limit permitted disturbances to 5 percent in any Colorado MZ (as defined in **Appendix F**, Disturbance Cap Management). **Exception.** Where data-based documentation is available to warrant a conclusion that GRSG populations in the applicable Colorado MZ are healthy and stable at objective levels or increasing, and that the development would not adversely affect GRSG populations due to habitat loss or disruptive activities, the Authorized Officer may authorize disturbance in excess of the 5-percent disturbance cap, without requiring additional mitigation. In many cases, this exception would require project proponents to fund studies necessary to secure the data-based documentation requirement.

Mitigation: If entire lease is within the 4-mile lek perimeter, limit permitted disturbances as defined in **Appendix F**, Disturbance Cap Management, to 5 percent in any Colorado MZ and make additional, effective mitigation necessary to offset the resulting loss of GRSG habitat.

Description of Alternatives B/D number 52 in Chapter 2, Table 2-4

GRSG PPH COA-52b/d. Apply a seasonal restriction on exploratory drilling in PPH to prohibit surface-disturbing activities during the lekking, nesting, and early brood rearing season.

This COA is to be attached to leases within PPH and could preclude the lessee the right to occupy the surface of the lease within PPH during nesting and early brood rearing.

Description of Alternative C number 52 in Chapter 2, Table 2-4

GRSG ADH COA-52c. Apply a seasonal restriction on exploratory drilling to prohibit surface-disturbing activities during the lekking, nesting, and early brood rearing season in ADH. This restriction shall also apply to related activities that are disruptive to GRSG, including vehicle traffic and other human presence.

This COA to be attached to leases within ADH could preclude the lessee the right to occupy the surface of the lease within ADH during nesting and early brood rearing.

Description of Alternatives B/C number 54 in Chapter 2, Table 2-4

GRSG PPH Notice to Lessees-54b/c. For leases within PPH, complete Master Development Plans in lieu of single-well Applications for Permit to Drill processing for all but wildcat wells.

Description of Alternative D number 54 in Chapter 2, Table 2-4

GRSG PPH Notice to Lessees-54d. Within PPH, complete Master Development Plans instead of single-well Applications for Permit to Drill for all but exploratory wells.

Description of Alternative B number 55 in Chapter 2, Table 2-4

GRSG PPH COA-55b. For leases that are not yet developed within PPH, the proposed surface disturbance cannot exceed 3 percent within that Colorado MZ.

This restriction on surface occupancy may preclude surface occupancy and may be beyond the ability of the lessee to meet due to existing surface disturbance on federal, state, or private lands within PPH.

Description of Alternative C number 55 in Chapter 2, Table 2-4

GRSG ADH COA-55c. For leases that are not yet developed in ADH, the proposed surface disturbance cannot exceed 3 percent for that entire Colorado MZ.

1 This restriction on surface occupancy may preclude surface occupancy and may
2 be beyond the ability of the lessee to meet due to existing surface disturbance
3 on federal, state, or private lands within ADH.

4 **Description of Alternative D number 55 in Chapter 2, Table 2-4**

5 **GRSG PPH COA-55d.** For leases that are not yet developed, the proposed
6 surface disturbance cannot exceed 5 percent for ecological sites that support
7 sagebrush in PPH for that Colorado MZ.

8 This restriction on surface occupancy may preclude surface occupancy and may
9 be beyond the ability of the lessee to meet due to existing surface disturbance
10 on federal, state, or private lands within ecological sites that support sagebrush
11 in PPH.

12 ***Disturbance Cap Exception Criteria:***

13 Where data-based documentation is available to warrant a conclusion that
14 GRSG populations in the applicable Colorado MZ are healthy and stable at
15 objective levels or increasing, and that the development would not adversely
16 affect GRSG populations due to habitat loss or disruptive activities, the
17 Authorized Officer may authorize disturbance in excess of the 5-percent
18 disturbance cap without requiring additional mitigation. In many cases, this
19 exception would require project proponents to fund studies necessary to
20 secure the data-based documentation requirement.

21 **Description of Alternatives B/C number 58 in Chapter 2, Table 2-4**

22 **GRSG PPH Notice to Lessees-58b/c.** Require unitization when deemed
23 necessary for proper development and operation of an area to minimize adverse
24 impacts to GRSG.

25 **Description of Alternative D number 58 in Chapter 2, Table 2-4**

26 **GRSG PPH Notice to Lessees-58d.** Encourage unitization within Colorado
27 MZs when necessary for proper development and operation of an area or to
28 facilitate more orderly (i.e., phased and/or clustered) development as a means of
29 minimizing adverse impacts to GRSG.

30 **STIPULATIONS APPLICABLE TO LAND USE AUTHORIZATIONS**

31 Restrictions on land use authorizations (e.g., ROWs) are administered through
32 the identification of exclusion and avoidance areas. Exclusion areas are
33 unavailable for location of ROWs under any conditions. Avoidance areas are to
34 be avoided when practicable due to identified resource values but may be
35 available with special stipulations. Those ROW stipulations that would be
36 attached to authorizations sited in areas identified as avoidance areas are
37 described below.

1 **GRSG PPH ROW Avoidance, Alternative D.** Areas identified as avoidance
2 areas for new ROWs and for ROWs for large transmission lines (greater than
3 230 kilovolts) would be required to document that they would not adversely
4 affect GRSG populations due to habitat loss or disruptive activities. Any new
5 projects within PPH would be subject to the 5-percent disturbance cap as
6 described in **Appendix F**, Disturbance Cap Management.

7 **Exception** (may apply to ROW avoidance areas in GRSG PPH). Where data-
8 based documentation is available to warrant a conclusion that GRSG
9 populations in the applicable Colorado MZs are healthy and stable at objective
10 levels or increasing, and that the development would not adversely affect GRSG
11 populations due to habitat loss or disruptive activities, the Authorized Officer
12 may authorize disturbance in excess of the 5-percent disturbance cap with
13 additional, effective mitigation (i.e., above and beyond the mitigation necessary
14 to ensure that the project remains neutral to GRSG). In many cases, this
15 exception would require project proponents to fund studies necessary to
16 secure the data-based documentation requirement.

I

This page intentionally left blank.